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WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON, SEATTLE

OMNI INNOVATIONS, LLC, a Washington Limited Liability company, **Plaintiffs,** v. **INSURANCE ONLY, INC.; MICHAEL WEDEKING, and his marital community; PATRICK WEDEKING, and his marital community,** **Defendants,**	**NO.** CV6 1210Z **COMPLAINT** 06-CV-01210-CMP

PARTIES, JURISDICTION, VENUE

1. Plaintiff OMNI INNOVATIONS, LLC, (hereinafter "OMNI") is a Washington limited liability company duly licensed and registered with the State of Washington, with its principal place of business in Franklin County, Washington.

2. On information and belief, plaintiff alleges that Defendant **INSURANCE ONLY, ("IOI") is a limited liability company registered in Washington,** with its principal place of business located in Pasco, Washington.

3. On information and belief, Michael Wedeking and Patrick Wedeking, (the "WEDEKINGS") are officers, directors, and/or majority shareholders of IOI, and as such control its policies, activities, and practices, including those alleged herein on

MERKLE SIEGEL & FRIEDRICHSEN
1325 Fourth Ave., Suite 940
Seattle, WA 98101
Phone: 206-624-9392
Fax: 206-624-0717

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behalf of those defendants. All acts and practices undertaken by the Wedekings on behalf of IOI are and were for the benefit of their marital communities. The Wedekings reside in the State of Washington and transact or have transacted business in the State of Washington and in the Western District of Washington.

4. Jurisdiction is proper pursuant to 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1332 (diversity).

5. This Court has supplemental jurisdiction of state law claims pursuant to U.S.C. § 1367.

6. Venue is proper pursuant to 28 U.S.C. §1391.

7. From and after May 2005, Plaintiff OMNI provided and enabled computer access for multiple users to a computer server that provides access to the Internet.

8. The domain names served by Plaintiff include: anthonycentral.com, chiefmusician.net, ehahome.com, itdidnotendright.com, jammtomm.com, jaycelia.com, celiajay.com, jaykaysplace.com, rcw19190020.com, and gordonworks.com (collectively the "Domains" and individually and generically a "Domain").

9. At all times material hereto, for the Domains and each of them, the information that all e-mail addresses at each Domain (the "Recipient Addresses") belong to Washington residents was and is available upon request from the registrant of each Domain, each registrant being a Washington resident and each Domain being registered with a Washington address.

10. During the time period of approximately August 2003 through May 2006, Plaintiff received at the Domains electronic-mail messages (collectively the "E-mails" or individually and generically as an "Email").

11. The E-mails, and each of them, were received by Plaintiff's servers serving the Domains, or at the Domains themselves, and/or on individual Plaintiffs' email accounts, and on their computers.

MERKLE SIEGEL & FRIEDRICHSEN
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12. Each of the E-mails misrepresents or obscures information in identifying the point of origin or the transmission path thereof, and contains header information that is materially false or materially misleading. The misrepresentations include without limitation: IP address and host name information do not match, or are missing or false, in the "from" and "by" tokens in the Received header field; and dates and times of transmission are deleted or obscured.

13. On information and belief, Plaintiff alleges that some of the E-mails used the Internet domain name of a third party or third parties without permission of that third party or those third parties, and/or used false, or misleading information in registering the domains used to send the subject E-mails.

14. Defendant initiated the transmission of the E-mails, and each of them. In the alternative, Defendant conspired or otherwise acted in collusion with another or others or assisted another or others to transmit the E-mails, and each of them.

15. At all times material hereto, Defendants knew or had reason to know that the Recipient Addresses, and each of them, were and are held by a Washington resident.

FIRST CAUSE OF ACTION – CAN-SPAM ACT

15 U.S.C. §7701 et seq.

16. On the basis of the facts set forth hereinabove, Defendants initiated the transmission of the E-mails, and each of them, to a protected computer in violation of 15 U.S.C. §7704(a), causing damage to Plaintiff as the provider of the Internet access service receiving each such E-mail in the amount of $100 for each such E-mail, as provided in 15 U.S.C. §7706 (g) (3).

17. Defendants did willfully and knowingly so act in violation of the provisions of 15 U.S.C. §7701 et seq.

MERKLE SIEGEL & FRIEDRICHSEN
1325 Fourth Ave., Suite 940
Seattle, WA 98101
Phone: 206-624-9392
Fax: 206-624-0717

SECOND CAUSE OF ACTION – CEMA

RCW 19.190.010 - .070

18. On the basis of the facts set forth hereinabove, Defendants initiated, conspired with another to initiate, or assisted the transmission of the E-mails, and each of them, in violation of RCW 19.190.020, causing damage to Plaintiff as the interactive computer service receiving each such E-mail in the amount of $1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

THIRD CAUSE OF ACTION – CONSUMER PROTECTION ACT

Ch. 19.86 RCW

19. On the basis of the facts set forth hereinabove, Defendants initiated the E-mails, and each of them, in violation of RCW 19.190.030 and Chapter 19.86 RCW, causing damage to Plaintiff as the interactive computer service receiving each such E-mail in the amount of $1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

REQUEST FOR RELIEF

Plaintiff respectfully requests the following relief:

1. Entry of a Judgment in favor of Plaintiff against the Defendants in the amount of $1,100 per unlawful E-mail, plus such other and further damages as may be proved at trial, plus treble damages to the extent permitted by Chapter 19.86 RCW and to the extent permitted by 15 U.S.C. §7706 (g) (3) (C), plus prejudgment and post-judgment interest at the highest rate permitted by law, plus cost of suit and reasonable attorney fees pursuant to Chapter 19.86 RCW and 15 U.S.C. §7706 (g) (4);

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Fax: 206-624-0717

2. Entry of a permanent injunction against the Defendants prohibiting the Defendants from sending or causing to be sent electronic mail messages of any kind or nature to e-mail addresses at the Domains, hereinabove.

3. Such other and further relief as the Court deems just and equitable in the premises.

RESPECTFULLY SUBMITTED this 16th day of August, 2006.

MERKLE SIEGEL & FRIEDRICHSEN, P.C.

/S/ Robert J. Siegel
Robert J. Siegel, WSBA #17312
Attorney for Plaintiffs

MERKLE SIEGEL & FRIEDRICHSEN
1325 Fourth Ave., Suite 940
Seattle, WA 98101
Phone: 206-624-9392
Fax: 206-624-0717